

Freedom of the Press

Freedom of expression and the press are constitutionally guaranteed and generally respected via a large variety of vibrant media. In November 2013, former prime minister Silvio Berlusconi was expelled from Parliament as a result of his conviction on tax fraud charges relating to his media conglomerate, Mediaset Group. Berlusconi's expulsion effectively brought an end to his problematic conflict of interest as a high-ranking public official and the owner of Italy's largest media company. However, the Italian press environment still faces a number of challenges, such as criminal sanctions for defamation, political interference over public broadcasting, and highly concentrated media ownership.

Defamation is a criminal offense in Italy, punishable under Article 595 of the penal code by fines of at least €500 (\$650) or six months to three years in prison. According to figures released by Ossigeno per L'Informazione, a local press freedom watchdog, 83 journalists were sued for libel in 2013. In May, Andrea Marcenaro and Riccardo Arena were sentenced to one year in jail for defaming Palermo magistrate Francesco Messina in a 2010 article published in the newsweekly *Panorama*. The article alleged that the magistrate had connections with the mafia. The editor of *Panorama*, Giorgio Mulè, received an eight-month prison sentence for failing to properly edit the article. The three journalists were also ordered to pay €20,000 (\$26,200) in compensation to the defendant. In October, a Sicilian court signed an order for the arrest of Francesco Gangemi, the 79-year-old editor of the monthly magazine *Il Dibattito*, to serve a two-year prison sentence for criminal libel convictions. Gangemi had been convicted of libel eight times in the last seven years and had failed to file an application requesting an alternative to imprisonment in "a timely fashion." Given Gangemi's medical condition—he is disabled and has cancer—the Italian National Press Federation called the order "a monstrosity" and "shocking."

On October 17, the Chamber of Deputies, Parliament's lower house, adopted a new defamation law; however, it was tabled for review by the Senate as of the end of 2013. The provision would abolish prison sentences for insult and defamation, and strengthen the reparatory effect of rectification. The media freedom watchdog Article 19 expressed concern that the proposed bill did not adequately address all concerns with the law, as it fails to introduce a provision mandating proportional damages for a particular offense, and does not address the overall criminality of defamation. The Venice Commission of the Council of Europe echoed Article 19's concerns, but noted the "substantial improvements" contained in the bill and lauded it overall as a "welcome effort."

The right to access information is not included in the constitution, and Italy does not have a freedom of information law, relying instead on a patchwork of provisions scattered across different statutes. Implementation of these provisions is problematic, and journalists often have to wait several years to obtain the requested documents. In 2012, an online initiative called FOIA.it campaigned for the adoption of a comprehensive law on freedom of information. Italy joined the Open Government Partnership, an international cohort comprised of 64 countries dedicated to the implementation of open government reforms through government and civil society collaboration, in 2011. In March 2013, Italy passed Legislative Decree 33—formally titled "Reorganization of the rules concerning the obligations of disclosure, transparency and dissemination of information by public authorities"—which stipulates greater transparency on public expenditures and personal finance disclosures of elected officials. The law came into effect in late April; while it represents a step toward greater official transparency, there were concerns about its effectiveness in practice. In addition, a 2013 study conducted by Diritto di Sapere in collaboration

with Access-Info Europe found that Italy's patchwork provisions failed to satisfy access to information requests almost three times out of four; 73 percent of the 300 requests filed by the project were met with unsatisfactory answers, with the response being either incomplete, inadequate, or irrelevant.

A 2010 report released by the Vienna-based International Press Institute noted a number of other legal impediments to press freedom, including the lack of a proper law to deal with conflicts of interest—particularly between media ownership and holding political office—as well as onerous licensing procedures for journalists that create hurdles to entering the profession and can limit opportunities for foreign-born and freelance reporters. Journalists do not need a license to practice in general, but they do need one to work as a full-time professional with one of the major media outlets. Getting a license from the journalists' association, the Ordine dei Giornalisti (ODG), is a lengthy and costly procedure in which applicants must pass a professional qualification test, which generally costs more than €1,300 (\$1,700), after serving as an intern for at least 18 months. Working conditions have become difficult in recent years; those with a full-time contract constitute only 19 percent of the workforce, and there is a significant pay gap between salaried and freelance journalists.

AGCOM, the national media regulator, has been severely criticized in the past for favoring Berlusconi's media empire and other politically connected conglomerates. In a push for greater regulatory transparency, the Chamber of Deputies delayed a vote on the five-person membership of AGCOM in May 2012. The former president of the chamber, Gianfranco Fini, along with UN Special Rapporteur on Freedom of Expression Frank La Rue, called for a merit-based process for selecting AGCOM members, as opposed to the existing system of political appointments. However, the newly appointed head, chosen in June 2012, had served as an aide to then prime minister Mario Monti, while the other board members were nominated by parliamentary parties. The selection procedure was denounced by the Open Media Coalition, an Italian civil society group, which initiated a lawsuit over the process later that year. However, in November 2013, Antonio Nicita, backed by the Democratic Party, was appointed commissioner of AGCOM, replacing Maurizio Dècina. Even though 54 applications were received for the position, Nicita's appointment demonstrates that political affiliation and party support continue to play a key role in the selection process.

Political interference in the operations and content of RAI, the public broadcaster, has also contributed to undermining media freedom in Italy. Since Berlusconi resigned as prime minister in November 2011, political pressure has diminished, but it is far from absent. The appointment procedure for RAI—under which Parliament has direct control over the selection of most directors and some key staff positions, and political parties share appointment privileges in a system known as *lottizzazione*, or dividing the spoils—was also called into question in 2012. Plans for reforming the procedure were suggested, including removing the Ministry of Economy as the majority shareholder and creating a council to appoint RAI board members. However, in July 2012 the old procedure was used to appoint Anna Maria Tarantola, former deputy director general at the Bank of Italy, as president, and Luigi Gubitosi, a Bank of America executive, as general manager of RAI. Meaningful reforms had yet to be implemented by the end of 2013.

Censorship of media content is generally not an issue. Although the internet is largely unrestricted, the government regulates certain websites, especially those offering gambling or child pornography. In 2011, AGCOM was in the process of reviewing a proposal that would give it more power to block or shut down websites determined to have violated copyright laws. The plan was criticized for infringing on the freedom to receive and provide information, and critics also raised the possibility that internet operators would practice self-censorship. In response, AGCOM stated that the regulations targeted “massive violations” and websites hosting infringing content, rather than small-scale infringements or individual internet users who post content. The regulations were approved on December 12, 2013, and will enter into force on March 31, 2014.

Journalists occasionally face physical threats or attacks from organized crime networks and other political or social groups. According to Ossigeno per l'Informazione, 149 journalists received warnings, 63 were physically attacked, and 15 had their equipment damaged in 2013. None of these incidents resulted in fatalities or critical injuries. In April, widely read newspaper *La Stampa* received a parcel bomb that did not detonate but had the potential to cause significant damage and injury. The anarchist group Federazione Anarchica Informale/Fronte Rivoluzionario claimed responsibility for sending the device, and explained that *La Stampa* was a target as “one of many newspapers of the regime.” In October, Massimo Numa, a journalist from *La Stampa* who had reported on the construction of a highly contested new high-speed rail line, was sent a USB drive filled with explosives. The device was intercepted before it could explode. Following that episode, he was assigned police protection. Several other journalists continued to live under police protection due to their work on organized crime, including Roberto Saviano and Rosaria Capacchione, who wrote about the Neapolitan mafia, or Camorra, and Giovanni Tizian, whose life is threatened by the Calabrian mafia, or ‘Ndrangheta. Federica Angeli, a reporter from *La Repubblica*, has been living under police protection since July 2013 due to death threats she received for her investigation on the partition of the coast near Rome between local mafias, with the complicity of local politicians.

The Italian media landscape is rich and complex. There are 140 daily newspapers in circulation, which are generally locally or regionally based. Newspapers are primarily run by political parties or owned by large media groups, but they continue to provide a range of political opinions, including those that are critical of the government. Italian news agencies, which provide the majority of information content to the media, also offer direct information services via digital platforms, such as web, satellite, and cellphones. In Italy, news agencies have always been free from the government's influence. Ansa, the oldest news agency, is a cooperative company exclusively comprised of newspaper publishers, while the others are private corporations.

Italy suffers from an unusually high concentration of media ownership for the region. Berlusconi's departure from office in late 2011, and his expulsion from Parliament in 2013, helped to reduce this concentration in de facto terms; when in power, he had indirect control over up to 90 percent of the country's broadcast media through the state-owned outlets and his own private media holdings. Berlusconi still controls a significant stake in the private media, as he is the main shareholder of Mediaset, which owns several television channels; the country's largest magazine publisher, Mondadori; and Publitalia, Italy's largest advertising company. Publitalia controls 65 percent of the television advertising market, giving Berlusconi's channels an advantage in attracting ads. In addition, one of the country's major nationwide daily newspapers, *Il Giornale*, is owned by Berlusconi's brother. In the television sector, over 90 percent of total revenues are held by only three operators: Sky Italia (32 percent), Mediaset (30.2 percent), and RAI (28.5 percent). Sky Italia is a digital satellite television platform owned by the American corporation 21st Century Fox. The publishing sector is more fragmented, featuring the presence of a few large publishing groups and numerous smaller owners, especially in the sphere of local daily newspapers and specialist magazines. However, two of the main publishing groups earn a significant portion of the revenue: Gruppo L'Espresso (19.9 percent) and RCS Mediagroup (17.9 percent).

In 1976, Italy became the first country in Europe to abolish the state monopoly on radio and television broadcasting as a result of a Constitutional Court decision. In the following years, a protracted legislative gap allowed a completely unregulated development of the market that resulted in the creation of a media system dominated by the state broadcaster RAI, along with Mediaset. The duopoly was then legalized by a law adopted in 1990, which permitted both RAI and Mediaset to keep their existing frequencies for both radio and television while limiting access to new competitors. In 1997, the Maccanico Law, which established AGCOM, prescribed that no outlet should have more than 20 percent of the total revenues from the media industry. However, this provision was never put into practice, and the 2004 Gasparri Law lowered the threshold so that Berlusconi was able to maintain control over the private media market. Despite numerous critiques, the Gasparri Law is still in force, and a proper law on conflict of interest is

lacking. The political instability of the past two years has precluded any systematic reform of ownership in the broadcast media sector. However, by the beginning of 2013, the switchover from terrestrial to digital television was complete. As a result of the transition, content pluralism has been enhanced by the creation of new thematic channels. Currently, there are 41 national free channels and over 30 pay-per-view channels.

Direct and indirect subsidies for print media outlets, which had been high even by European standards, were significantly cut by the new government that took power in late 2011. In 2013, political party papers, about 15 in total, were the only dailies supported by approximately €96 million (\$125.75 million) in public funds; the remaining newspapers were financed by advertising and sales. According to the most recent data published by AGCOM, between 2009 and 2012, the print sector suffered a 24 percent decrease in advertising revenues and a 6 percent decrease in sales. The Italian news industry is increasingly focusing on offering content via digital media; online newspapers are among the most visited pages on the web.

In 2013, the average speed of internet connection improved in Italy. Approximately 58 percent of Italians accessed the internet regularly during the year, and 47 percent had internet access via mobile. The internet is generally unrestricted, but authorities are intensely active in blocking file-sharing and live-streaming sites if they seem to illegally provide access to copyrighted content. During the 2013 electoral campaign, blogs and social media played an important role in political debates and news dissemination.

2014 Scores

Press Status

Partly Free

Press Freedom Score

(0 = best, 100 = worst)

31

Legal Environment

(0 = best, 30 = worst)

12

Political Environment

(0 = best, 40 = worst)

10

Economic Environment

(0 = best, 30 = worst)

9

